

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

MATTHEW MUZY )  
                        )  
Plaintiff,         )  
v.                     ) CASE NO. 1:23-CV-110-HAB  
                        )  
MEIJER STORES LIMITED PARTNERSHIP,     )  
ELIJAH VANCE, OFFICER DALTON         )  
WAIDELICH, OFFICER WILLIAM TURRIFF,    )  
AND OFFICER ALEXIS AGUILERA         )  
                        )  
Defendants.         )

**OPINION AND ORDER**

On May 24, 2023, the parties filed a Stipulation of Dismissal as to Defendant Officer William Turriff only. (ECF No. 14). Federal Rule of Civil Procedure 41(a) provides the terms upon which a plaintiff can voluntarily dismiss an action. Fed. R. Civ. P. 41(a). The Seventh Circuit has indicated that Rule 41(a) should be used for the limited purpose of dismissing an entire action rather than for dismissal of individual parties or piecemeal claims. *Taylor v. Brown*, 787 F.3d 851, 857 (7th Cir. 2015) (“Although some courts have held otherwise, we’ve said that Rule 41(a) does not speak of dismissing one claim in a suit; it speaks of dismissing an action—which is to say, the whole case.”) (first quoting *Berthold Types Ltd. v. Adobe Sys. Inc.*, 242 F.3d 772, 777 (7th Cir. 2001); then citing *Nelson v. Napolitano*, 657 F.3d 586, 588 (7th Cir. 2011)).

According to the Seventh Circuit then, Rule 41(a) is not the proper vehicle for dropping individual parties or claims. See *Taylor*, 787 F.3d at 858 n.9. (“The parties indicated that it’s common practice in some district courts in this circuit to allow the voluntary dismissal of individual claims under Rule 41(a). If that is true, we remind judges to use Rule 15(a) instead.”). If Plaintiff desires, instead, to amend the complaint under Federal Rule of Civil Procedure 15(a)

to remove Officer William Turriff, leave is so granted. Plaintiff has until June 14, 2023, to file an Amended Complaint.

### **CONCLUSION**

For the reasons stated above, the Stipulation of Dismissal as to Officer William Turriff only (ECF No. 14), has no effect and will be termed as a pending motion on the Court's docket.

SO ORDERED on May 30, 2023.

*s/ Holly A. Brady*

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JUDGE HOLLY A. BRADY  
UNITED STATES DISTRICT COURT